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Dear Matthew Weighill

CMA MARKET INVESTIGATION INTO PAYDAY LENDING

Response to: Notice of possible remedies under Rule11 of the CMA Rules of Procedure.

Introduction

These comments are from the Islington Debt Coalition Payday Loan Working group. We are a sub group of the Islington Debt Coalition a partnership of organisations led by Islington Council working to tackle the issue of debt in Islington. The Payday Loan working group comprise representatives from:

- Islington Council – Financial Operations
- Islington Council – Planning & Development
- Islington Council – Trading Standards Service
- London Capital Credit Union
- Islington Law Centre
- Islington People's Rights
- Islington Citizen Advice Bureau

We welcome the opportunity to respond on the proposed remedies derived from CMA's Payday Lending Market Investigation. Our detailed response is outlined below.

We are happy for our comments to be made public.

Response

The response follows the sections within the sections in the Notice of possible remedies. Comments are given in italics.

Remedy 1: Price comparison website

Issues for comment

(a) What are the main challenges in establishing an effective price comparison website in this market

and how might these be overcome?

There will be a number of challenges

The site would need to be independent of lenders and be clear about how it is funded. Existing sites are funded through commission and sponsored listings. The lenders who are already dominant in the sector may become the dominant businesses on the site. Any new site would need to be transparent about commercial relationships or better still, independent from them.

If existing market forces have not already led to a comparison site we feel that external funding may be necessary to maintain it. Or at minimum intervention a Government led Governance body to oversee administration and ensure full transparency.

The definition of a pay day loan will be crucial. If the limit is £1000 some lenders may avoid by offering something different under a different guise. The controlling authority will need to be prepared in advance how best to respond to this, or make reference in the guidance to cover similar financial offerings.

Analysis of the Office of Fair Trading's credit licence register shows that many lenders are permitted to operate under more than one trading name and this could confuse the market (.com!).

Some research by Islington Council's trading standards teams suggests that some lenders, with separate licences, may in fact be linked. Some work needs to be done to ensure the identification the site is advertising e.g. the same trader but under different guises.

The site might encourage borrowers to make multiple applications which could be adversely reflected in credit ratings. Clear information should be provided to the borrower of this danger.

The site needs to win the confidence of borrowers. The reputation of existing sites is not perfect. There have been several studies over the years that have made recommendations for improvements:

- <http://www.consumerfutures.org.uk/files/2013/07/Price-Comparison-Websites-Consumer-perceptions-and-experiences.pdf>
- <http://www.consumerfocus.org.uk/files/2013/01/Comparing-comparison-sites.pdf>
<http://www.moneywise.co.uk/cut-your-costs/shop-smart/the-truth-about-comparison-websites>
- <http://www.consumerfutures.org.uk/files/2013/07/Price-Comparison-Websites-Consumer-perceptions-and-experiences.pdf>

Information should be made on the site to highlight alternative loan sources such as Credit Unions in order to meet the borrower's needs.

(b) What features should a customer be able to specify when searching for a loan using the website? For example, should a customer be able to specify:

(i) The duration and value of loan required?

Yes, these are fundamental

(ii) The repayment structure of the loan (instalment loans vs traditional single repayment payday loans)?

(iii) inclusion of faster payment options, or the date on which customers wish cash to be received by

Such information must not be presented in such a way that it unnecessarily influences the borrower's

choice.

(iv) Other characteristics of the loan or provider (and what those might be).

(c) What is the best way of providing a comparative cost of a loan and how should the price of payday loans be disclosed for any given scenario – for example, should the total cost of credit and/or the total amount to be repaid be included?

Both total cost of credit and the total amount to be repaid to account for the different way consumers can interpret information.

(d) In which order should products be ranked (e.g. based on total cost of credit, or other metrics), and should customers be able to specify this ordering?

Annual percentage rate and total cost of loan.

(e) How should repayment scenarios in which a borrower does not repay the loan on the originally agreed date be treated on the website – for example, should borrowers be informed of the possible cost of rolling over the loan, the costs associated with repaying the loan late and/or other scenarios in which additional fees or charges might apply?

Yes, lenders need to make consumers aware of all likely fees, such as the cost of sending out reminder letters. The CMA has recently issued guidance to the letting agents which go into great detail on making fees known. The Advertising Standards Authority has also issued advice on making fees clear.

- https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319820/Lettings_guidance_CMA31.PDF
- <http://www.cap.org.uk/Advice-Training-on-the-rules/Advice-Online-Database/Compulsory-costs-and-charges-Letting-agents.aspx>

To declare the total cost at the end of one rollover could be a helpful comparison.

(f) Which lenders and products should be included on the website?

(i) Should all authorised lenders be required to participate?

Isn't this dependent on the definition of a pay day loan?

(ii) Should any non-payday lenders or products (for example, credit unions or instalment loans of longer than 12 months) be allowed to participate?

Isn't this dependent on the definition of a pay day loan?

(iii) Should lead generators or other intermediaries be excluded from being listed on the price comparison site?

Yes, they are not lenders

(g) How should the website be operated and governed?

(i) Who should maintain the website and make decisions about its ongoing development?

An independent and respected body needs to oversee the site. May be a credit charity or a credit trade

association, clearly it needs to be an independent governance body.

(ii) How should the website be funded (e.g. by payday lenders, and, if so, in what proportion)?

By lenders via number of products put forward at a flat rate per entry, or a registration fee?

(h) How should the website be promoted?

(i) Should lenders be required to include a link to the website on their own websites and in other communications with their customers? Should the website advertise through television and other offline channels?

Both suggestions should be requirements, especially while the site is being established in the minds of the public

(ii) How could search engines be encouraged to display a link to the site when certain search terms are used?

They usually only do this for a fee. The organisation running the website should be required to carry out appropriate marking including the use of search engines.

Remedy 2: Measures to improve customer awareness of additional charges and fees

Issues for comment

Views are invited on the specification, effectiveness and proportionality of this remedy and, in particular, on the following:

(a) Should additional fees and charges for late payment and/or rolling over of loans be made more prominent?

Yes

(b) How and when should any notification of charges be presented in the borrowing process?

At as many stages as possible. Consumers need to know when they are selecting a supplier but also need to be able to access information on charges if they start to get into difficulties with payments.

(c) Should fees and charges be demonstrated using one or more example scenarios? How should such scenarios be specified?

Yes

(d) Should any information on fees for late payment or rolling over loans be included on any price comparison site, if one were created under Remedy 1?

Yes – it may be contrary to the Consumer Protection from Unfair Trading regulations 2008 if lenders fail to make fees known.

(e) What are the likely costs of this measure and how do they vary with the design of the remedy?

Remedy 3: Measures to help customers assess their own creditworthiness

Issues for comment

Views are invited on the specification, effectiveness and proportionality of this remedy and, in particular, on the following:

(a) Which of the above approaches, or which combination of approaches, is most likely to achieve the objectives of this remedy? Are there alternative approaches which would be more effective?

The site should provide information to direct borrower's to the national advice services if they have money problems e.g. <https://www.moneyadviceservice.org.uk/>. The information provided can provide signs which may indicate that a person would benefit from providing advice before taking out a loan.

(b) To what extent are credit checks undertaken before the submission of a formal application for credit?

(i) Where searches are made, are these typically quotation or application searches? What further benefit does an application search give to a lender over a quotation search?

(ii) Would there be any benefit to the reference in the FCA's handbook on the ability of a customer to undertake a quotation search without affecting their ability to access credit being elevated in status from guidance to a rule?

(iii) Is there any benefit to other lenders and/or customers from searches leaving a footprint if a lender provides real-time CRA data updates of newly-issued loans?

(c) How can customers' understanding of which lenders would lend to them prior to the point of application be improved?

(i) Where an initial eligibility check is performed by a lender and the customer is deemed 'eligible', should the lenders be required to ensure that all deemed eligible customers are approved should they make a formal application in the absence of evidence?

(ii) Should lenders be required to present an indicative 'credit score's (from one or more CRAs) that a certain proportion (e.g. 90%) of their respective customers have at the point of application?

(d) To what extent are customers aware of and/or concerned about the possible impact of multiple credit searches on their ability to access credit?

(e) What are the practical challenges of integrating an eligibility check into a price comparison site?

(f) What are the likely costs of this measure and how do they vary with the design of the remedy?

Remedy 4: Periodic statements of the cost of borrowing

Issues for comment

Views are invited on the specification, effectiveness and proportionality of this remedy and, in particular, on the following:

(a) Should lenders be required to send a regular statement of borrowing costs to customers?

Yes, banks and credit cards usually update clients on a monthly basis. Although this will increase costs. Electronic means may be cheaper.

(b) The period of the statement (for example, quarterly, twice a year or annually), in light of the typical timescale of a payday lending relationship.

(c) Which customers should receive a statement and at what point and when should they cease to receive a statement?

All customers should receive a regular statement in relation to their payment interval until the loan is completed.

(d) The method of distribution of the statement, for example by post, email, online or through other channels.

(e) The date on which the statement should be sent and whether this should be the same for all lenders.

(f) What information should be included on the statement (for example, the number of loans, number of days that loans were taken out, total cost of interest, fees and charges over the period?)

All the information noted above, it should be a complete statement from start date showing all financial activity and outstanding balance and planned payment to end.

(g) What further material should be included with the statement – for example, where financial advice can be obtained or a link to a price comparison website should one be introduced under remedy 1?

*Information relating to National Services that can provide financial advice if needed e.g.
<https://www.moneyadviceservice.org.uk/>*

Yes the lender should be given the option of comparing against current market offerings to ensure that they are getting best value.

(h) What are the likely costs of this measure and how do they vary with the design of the remedy?

Remedy 5: Measures to increase the transparency of the role of lead generators

Issues for comment

Views are invited on the specification, effectiveness and proportionality of this remedy and, in particular, on the following:

(a) Is existing regulation sufficient to ensure that clear information is provided to customers on the relationship between brokers and lenders?

In theory, yes. The Consumer Protection from Unfair Trading Regulations 2008 cover misleading omissions plus action could be taken via the Part 8 of the Enterprise Act 2002. Such failings should also be taken into account when deciding fitness to continue authorisation for credit activities.

For many the lead generator website gives the impression they are lenders. Often it is not until the credit

licence is checked that it becomes apparent that the trader is a broker.

However this seems to be a large scale, national, problem with traders failing to be clear about their services. This is also contrary to (what was) OFT guidance. Action from a central body such as the FCA would help to improve the situation.

(b) Are there any additional compliance activities that the FCA should undertake?

The use of fixed penalty notices?

(c) How should any such remedy be implemented?

As a fine and publicised?

(d) Which classes of credit broker or other intermediary should any additional requirements apply to?

All?

(e) Should lead generators, affiliates and brokers be required to make a declaration as to the service they provide to customers and the relationship they have with lenders?

Yes and the declaration should have some prominence.

(f) What content should the declaration include, for example:

(i) the basis on which a customer is introduced to a lender (for example, by selling to the highest bidder in an auction process)

Yes

(ii) what the cost of credit would be from the cheapest and most expensive lenders that the intermediary sells details to; and

(iii) An explicit statement that cheaper loans may be available from other lenders?

(g) How should any declaration be enforced:

(i) by requiring intermediaries to make a declaration; and/or

Yes

(ii) By prohibiting lenders from using intermediaries that do not display an appropriate declaration?

And yes

(h) How should the declaration be presented:

(i) on a landing page or initial pop-up or frame; and

Presuming lead generators are excluded from the comparison site. On their own site a pop up similar to the requirements for cookies. Namely one that will not clear from the screen until the viewer has clicked

on the message. The message needs to be large enough to interfere with reading the information.

(ii) At the point at which details are entered?

Yes, and before the request is sent. Again a large pop up could help to draw the consumer's attention to the message.

(i) Should lenders be prohibited from selling or providing customer details to third parties?

Yes

(j) Is there any risk that the business model of lead generators could be amended to avoid supervision by the FCA if any proposed remedy was implemented?

Yes, some might start using the telephone to find clients.

(k) What are the likely costs of this measure and how do they vary with the design of the remedy?

A response would require full financial appraisal which is not possible at this point in time.

We look forward to seeing the outcome of this consultation.

Yours sincerely

Grace Hussey

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Islington Council

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